

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

NATIVIDAD FRANCO-ADAME	§	
REG. NO. 98734-079	§	
V.	§	C.A. NO. C-05-517
	§	
ANTHONY ROGERS, ET AL.	§	

**ORDER DENYING PETITION TO RECUSE**

This is a civil rights action filed by a state prisoner pursuant to 42 U.S.C. § 1983.

Plaintiff's petition to recuse the undersigned magistrate judge is pending. (D.E. 10).

Plaintiff appears to be complaining because a magistrate judge conducted a hearing and issued a memorandum and recommendation recommending that his action be dismissed. (D.E. 10, at 2).<sup>1</sup> The hearing and the memorandum and recommendation were done pursuant to 28 U.S.C. § 636(b)(1). See, e.g., United States v. Gibbs, 421 F.3d 352, 355 (5th Cir. 2005); Newsome v. E.E.O.C., 301 F.3d 227, 230 (5th Cir. 2002); Bass v. Parkwood Hosp., 180 F.3d 234, 240 (5th Cir. 1999).

To the extent that plaintiff is seeking the undersigned magistrate judge recuse himself from this action, such a request is without a basis. As the Supreme Court has explained, “[j]udicial rulings alone almost never constitute valid basis for a bias or partiality motion.” Liteky v. United States, 510 U.S. 540, 555 (1994); accord United States v. Landerman, 109 F.3d 1053, 1066 (5th Cir. 1997) (quoting Liteky); United States v. MMR Corp., 954 F.2d 1040, 1045 (5th Cir. 1992) (“adverse rulings in a case are not an adequate basis for demanding recusal”). Instead, as the Fifth

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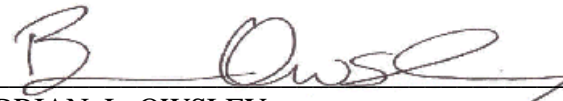
<sup>1</sup> The petition lacks any real coherence and is mostly a list of various legal principles and citations strung together. See generally (D.E. 10). It should be noted that plaintiff did not speak English well enough to converse in English at a telephonic hearing held on November 17, 2005. It appears that he is receiving bad advice or legal paperwork from some jailhouse lawyer.

Circuit has indicated, “the judge’s rulings should constitute grounds for appeal, not for recusal.”

Landerman, 109 F.3d at 1066 (citing Liteky, 510 U.S. at 555).

Accordingly, plaintiff’s petition for recusal, (D.E. 10), is hereby DENIED.

ORDERED this 7th day of December 2005.



BRIAN L. OWSLEY  
UNITED STATES MAGISTRATE JUDGE